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ABSTRACT

The Office for Civil Rights (OCR) enforces federal civil rights laws prohibiting discrimination in programs and activities receiving federal financial assistance from the Department of Education. Laws enforced by OCR include: (1) Title VI of the Civil Rights Act of 1964, prohibiting discrimination on the basis of race, color, and national origin; (2) Title IX of the Education Amendments of 1972, prohibiting discrimination on the basis of sex; (3) Section 504 of the Rehabilitation Act of 1973, prohibiting discrimination on the basis of disability; (4) Age Discrimination Act of 1974; and (5) Title II of the Americans with Disabilities Act of 1990. The OCR's enforcement authority extends to almost 15,000 school districts, over 3,600 colleges and universities, approximately 5,000 proprietary organizations, and thousands of libraries, vocational rehabilitation agencies, and correctional facilities. During fiscal year 1997, OCR's 12 enforcement offices focused on disability discrimination; discrimination against minorities in special education, remedial courses, and math, science and other advanced-placement courses; access to programs for limited-English-proficient students; racial and sexual harassment; discriminatory use of tests and assessments; discrimination in higher education admissions and the appropriate use of affirmative action; equity in athletics; and school and college desegregation. This annual report explains the laws protecting students and employees; outlines OCR's complaint resolution, compliance review, and technical assistance processes; and discusses 1997 case examples and enforcement actions. (MLH)

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Office for Civil Rights
Fiscal Year 1997

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Annual Report to Congress

Fiscal Year 1997

U.S. Department of Education
Office for Civil Rights

"Federal statutes, regulations and policies promise that students will not be denied access to education on the basis of race, color, national origin, ethnicity, gender, age or disability. Each year we draw closer to making that promise a reality as we forge partnerships to enforce the civil rights laws."

Norma V. Cantú
Assistant Secretary
for Civil Rights

Education has always been the heart of opportunity in this country. And it is the embodiment of everything we must do to prepare for the 21st century. Nothing will do more to open the doors of opportunity to every American and prepare them for unimagined new work and careers. Nothing will do more to instill a sense of responsibility in every American as they work to make the most of their education. And nothing will do more to build a strong, united community of all Americans -- for if we all have the tools to succeed, we can move forward together, as one America.

President Clinton - Radio Address to Nation
May 17, 1997

I. RESPONSIBILITIES OF THE OFFICE FOR CIVIL RIGHTS

The U.S. Department of Education's Office for Civil Rights (OCR) is a law enforcement agency. It derives its authority from the Department of Education Organization Act, 20 U.S.C. §3401, *et seq.*, and enforces the federal civil rights laws prohibiting discrimination in programs and activities receiving federal financial assistance from the Department of Education. In limited cases, the OCR also performs this responsibility for 18 other federal agencies that have delegated civil rights compliance responsibilities to the OCR.

The Law

The laws enforced by the OCR are:

1. Title VI of the Civil Rights Act of 1964 (Title VI), which prohibits discrimination on the basis of race, color, and national origin;
2. Title IX of the Education Amendments of 1972 (Title IX), which prohibits discrimination on the basis of sex;
3. Section 504 of the Rehabilitation Act of 1973 (Section 504), which prohibits discrimination on the basis of disability;
4. Age Discrimination Act of 1975, which prohibits age discrimination; and
5. Title II of the Americans with Disabilities Act of 1990 (Title II), which prohibits discrimination on the basis of disability by public entities, whether or not they receive federal financial assistance.

These civil rights laws cover the actions of federally funded educational programs and activities and have broad application because most educational institutions receive some type of federal financial assistance. Therefore, the OCR's enforcement authority extends to:

- almost 15,000 school districts;
- more than 3,600 colleges and universities;
- approximately 5,000 proprietary organizations; and
- thousands of libraries, vocational rehabilitation agencies, and correctional facilities.

Moreover, these laws represent America's commitment to end discrimination in educational programs. This commitment is reflected in the Department of Education's mission -- ensuring equal access to education and promoting educational excellence throughout the nation. Within the Department of Education, the OCR works to ensure that all federally-funded educational institutions are meeting the civil rights requirements established by law and regulation. Furthermore, the OCR is committed to the balanced enforcement of these laws to ensure equal opportunity for *all* students and employees in these educational institutions.

The OCR's Work

Most of the OCR's activities are conducted by its 12 enforcement offices, located throughout the country. The Office of the Assistant Secretary for Civil Rights provides overall leadership and coordination. The OCR's work includes responding to complaints from the public and ensuring compliance with the civil rights laws through agency-initiated reviews. The OCR also provides information and other services to help federally funded educational institutions comply with the civil rights laws and to help their students and employees understand their rights under the laws.

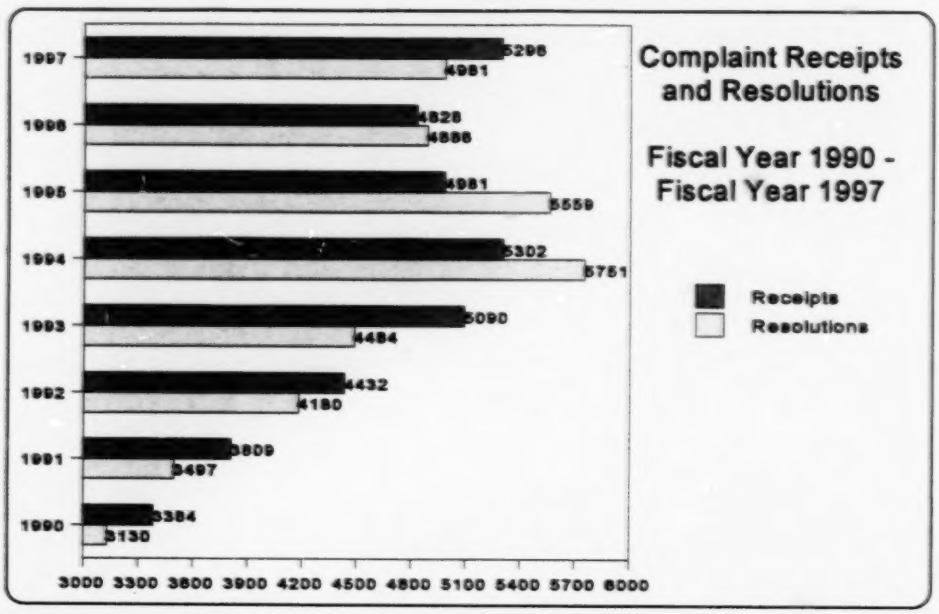
During fiscal year 1997, the OCR focused on the following issues: disability discrimination; discrimination against minorities in special education and remedial courses; discrimination against minorities in math and science and other advanced placement courses; access to programs for limited English proficient students; racial and sexual harassment; discrimination in the misuse of tests and assessments; discrimination in higher education admissions and the appropriate use of affirmative action; equity in athletics; and higher education and elementary and secondary school desegregation.

The Government Performance and Results Act of 1993 asks federal agencies to focus on the results of their programs. Focusing on accountability and results is not new to this agency. The OCR's performance indicators, developed in response to the Act, are derived from its Strategic Plan. These performance indicators define results for the OCR as increasing the number of students having access to high quality education, increasing the number of students affected by our efforts, increasing the number of successful partnerships with educators, and increasing the involvement of parents and students as part of our compliance efforts.

II. THE LAWS PROTECT STUDENTS AND EMPLOYEES

The civil rights laws protect more than 52.2 million students attending elementary and secondary schools and more than 14 million students attending our colleges and universities. The laws also protect students applying to attend America's postsecondary educational institutions. During fiscal year 1997, the OCR received 5,296 complaints alleging a wide range of civil rights violations and resolved 4,981 complaints, some of which were received during previous fiscal years.[1]

People who are employed, or are seeking employment, at federally funded educational institutions are also generally protected under the statutes enforced by the OCR. The OCR's authority in this area, however, is limited. Under Title VI, the OCR has jurisdiction only where the purpose of the federal aid is to provide for employment or where discrimination in employment may have a discriminatory impact on students. Under Title IX, the OCR generally refers complaints solely alleging employment discrimination against an individual to the Equal Employment Opportunity Commission (EEOC). Under Title II and Section 504, the OCR also often refers complaints solely alleging employment discrimination against an individual on the basis of disability to the EEOC. The OCR has no jurisdiction over complaints of employment discrimination on the basis of age. The OCR received 582 new complaints of employment discrimination in fiscal year 1997 and resolved 569 employment discrimination complaints during fiscal year 1997, some of which were carried over from previous fiscal years.



[1] 953 of the 5,296 complaints received contained multiple legal bases of discrimination. As a result, the number of complaints identified by subject in the remaining text will total more than the 5,296 separate complaints received by the OCR. Also, in this report, "resolved" means a complaint was assessed and one of the following occurred: the complaint was found inappropriate for the OCR action; the complaint was found appropriate for the OCR action and civil rights concerns were addressed; the complaint was found appropriate for the OCR action and there were no civil rights violations.

III. HOW THE OCR RESOLVES COMPLAINTS

"Communication throughout the process has been excellent. The 'team' was able to discuss areas fully enabling us to find the nuggets of difference uncluttered by semantic problems. We know exactly what needs to be done and why. This is a major difference from past interactions between our school district and the OCR."

Assistant Superintendent for Student Services
March 10, 1997

Under the Department of Education's regulations, the OCR must address all complaints filed with its offices. 34 C.F.R. §100.7. Anyone may file a complaint with the OCR if he or she believes someone is discriminated against, in a federally funded educational program or activity, on the basis of race, color, national origin, sex, disability, or age. The person, or persons, filing the complaint need not be a victim of the alleged discrimination, but may complain on behalf of another person or group.

After receiving a complaint, the OCR's first priority is to resolve the allegations promptly and appropriately. To achieve this goal, the OCR uses a collaborative approach. The OCR recognizes that federal, state, and local education agencies, as well as parents and others, share the desire to provide equal access to high quality education. Given this common objective, the OCR always attempts to work with them to obtain effective solutions. These collaborative relationships help the OCR end discriminatory practices, which results in beneficial change for everyone.

The OCR uses varied techniques to resolve complaints. For example, it facilitates voluntary resolution discussions between the parties and attempts to obtain agreements for corrective action in which the parties to the complaints voluntarily address their concerns. Any approach, or combination of approaches, may be used at any time. This flexible approach allows the OCR to:

- provide timely and effective intervention at the beginning of the complaint process;
- focus on achieving effective change; and
- make students, parents and school officials central to the resolution of complaints.

The OCR makes every effort to work with educational institutions to resolve violations of the civil rights laws. Formal enforcement proceedings begin only when all other alternatives to reach a resolution have failed.

In fiscal year 1997, the OCR's work resulted in beneficial change for over two million students. Examples of the OCR's work are set out in the remainder of this report.

IV. THE OCR CONDUCTS COMPLIANCE REVIEWS

Not all discrimination can be addressed simply by responding to complaints from the public. Therefore, the OCR also reviews the practices of educational institutions to ensure they are complying with the civil rights laws. 34 C.F.R. §100.7(a). These agency-initiated cases are called "compliance reviews."

Compliance reviews maximize the impact of the OCR's resources and balance its enforcement program. Carefully designed compliance reviews can benefit large numbers of students, through policy or program changes.

Decisions to conduct reviews are based on a variety of information, including information provided by parents, education groups, media, community organizations, and the general public. We confirm solid leads with objective data from various sources, including the OCR's Elementary and Secondary School Civil Rights Compliance Report (E & S Report). The E & S Report survey is conducted every two years with a representative sample of approximately one third of America's public school districts. Since 1968, the E & S Report has been the cornerstone for the Department's civil rights records keeping system for the nation's public schools.

The OCR initiated 152 compliance reviews in fiscal year 1997, the most undertaken during this decade.

V. THE OCR PROVIDES TECHNICAL ASSISTANCE

The OCR alone cannot stop discrimination in education. Students, parents, and educators need the knowledge and skills to prevent discrimination from occurring in the first place. Therefore, in addition to responding to complaints and conducting compliance reviews, the OCR provides information and other services to help federally funded educational institutions comply with the civil rights laws and to help their students and employees understand their rights under the laws. This help is known as "technical assistance."

The OCR provides technical assistance through onsite consultations, conference sponsorship and participation, training classes, community meetings and the internet. Written and telephone guidance is also given in response to tens of thousands of inquiries received annually from parents, students, educators, as well as from the federal, state and local governments.

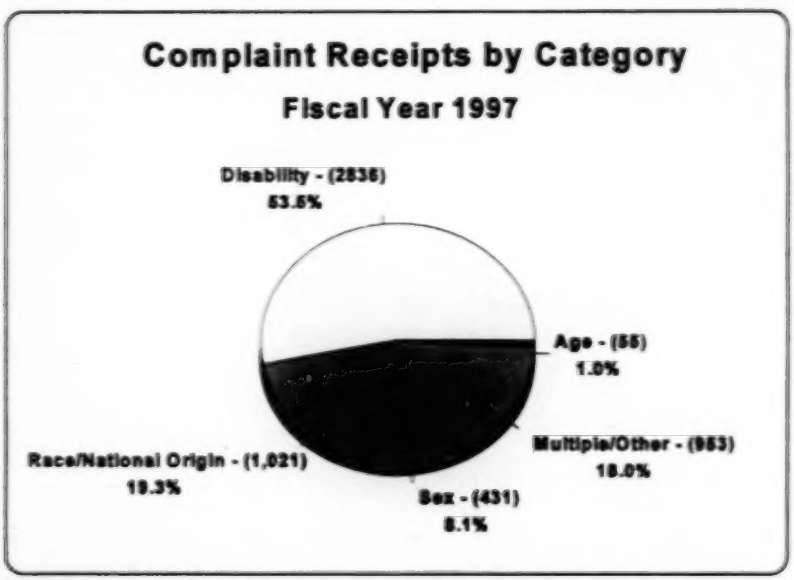
The OCR's customer service team, is the agency's first organizational unit dedicated entirely to customer service. The team acts as a single point of contact for external inquiries and complaints, provides the public with information on civil rights matters and the OCR's cases, and provides a central point of contact for customer complaints. All of the OCR offices have customer service teams to help respond to these inquiries. Approximately 500 parents and educators call these teams for information and assistance every week.

VI. THE OCR'S WORK BENEFITS ALL AMERICANS

> ...[The OCR] was able to immediately comprehend the situation and give me intelligent, clear and precise directions of the various options to consider. Your effectiveness gives great credit to our government."
>
> Parent of law student
> February 21, 1997

The civil rights laws have opened the doors to our classrooms and have leveled the playing fields. The OCR's enforcement of these laws helps ensure equal educational opportunities for millions of students. As a result, all students are given the chance to become our future leaders in business, government, science, arts, education and other fields.

The chart below shows the type and amount of cases the OCR received during fiscal year 1997.



Total FY 1997 Complaint Receipts are 5,296. Multiple/Other represents complaints containing multiple legal bases in the claim of discrimination.

TITLE VI

Introduction

Title VI prohibits discrimination, on the basis of race, color and national origin, in federally funded programs and activities. 42 U.S.C. §2000(d), *et seq.* Yet, this type of discrimination still exists in our federally funded educational institutions and the OCR unites with students, parents and educators to fight it daily.

The OCR receives a large number of complaints involving Title VI issues. During fiscal year 1997, the public filed 1,421 complaints alleging Title VI violations in the following areas:

- racial harassment;
- discipline practices;
- student assignment policies;
- school segregation;
- ability grouping practices; and
- academic grading practices.

The OCR also pursues many compliance reviews in this area. During fiscal year 1997, it initiated 138 Title VI compliance reviews. These issues included access of students with limited proficiency in English to alternative language services, assessment of these students for special educational services, under representation of minorities in gifted and talented programs and over representation of minorities in special education.

Fiscal Year 1997 Case Examples

During fiscal year 1997, much of the OCR's Title VI work focused on five areas: discriminatory placement and tracking practices, testing, issues relating to students with limited English proficiency and affirmative action.

Discriminatory placement and tracking practices

In one state, the OCR found widespread misclassification of minority children in special education programs, which limited their educational opportunities. The treatment of minorities in special education programs is an important issue because minorities are often wrongly placed in these programs, resulting in within school segregation. Working with the OCR, the state developed and agreed to a plan requiring each school district to ensure race neutral practices in regular *and* special education. There have already been changes including re-classification of or less restrictive placements for some black and white students, and the development and implementation of procedures to ensure students are referred for special education only when necessary and appropriate.

In another state, the OCR found African-American students were excluded from upper level courses although they were more qualified than some enrolled white students. Additionally, Hispanic students with average intelligence scores were inappropriately identified

as cognitively disabled and assigned to special education, without any educational justification. In the resolution of the case, the school district agreed to establish a monitoring committee of teachers, administrators, parents, and community members; change the criteria for higher level courses; create pre-referral support teams to work with students before referring them to special education; and revamp language assistance programs.

As a further example, the OCR entered into an agreement with a school district concerning the high number of African-American students being identified as learning disabled and mentally disabled. In September 1996, 35% of the students in the district were African-American, but 232 of the 442 students classified as mentally disabled or learning disabled (52%) were African-American. During the 1997-98 school year, that number dropped to 205 students, a 12% decrease. The change is largely the result of improved methods of helping students who are experiencing difficulty in the regular classroom, staff training, and a more educationally sound and rigorous scrutiny of students who are being considered for special education.

As a final example, one complaint alleged discrimination against minority students because access to information about a board of education's schools and programs was systemically denied to minority parents. This information included information about registration procedures, variances, and gifted programs. The board agreed to create a procedure for providing information to *all* parents. Moreover, information of the range and detail now provided, due to the OCR's efforts, was not previously available to *any* parents. Accordingly, the OCR's resolution improves the information available for all parents of the 1.1 million students in board schools.

Testing

In the area of testing, the OCR had one of its most significant case resolutions in 1997. The OCR resolved a complaint regarding the use of a statewide proficiency test. The civil rights laws require equal opportunities in educational testing and assessment used for high stake decisions. High stakes tests are defined as those having an impact on the educational opportunities of students -- through placement, promotion or graduation decisions, for instance. The complaint alleged minority students were discriminated against because they could not pass the state test and, therefore, did not receive their high school diplomas. The OCR did not challenge the state's decision to have the test determine graduation. Instead, the OCR worked in partnership with the state to ensure all public school students have an equal opportunity to access curriculum and instruction necessary to pass the tests, regardless of race or national origin.

Students with limited English proficiency

In the area of students with limited English proficiency, the OCR still finds many schools are not providing necessary services to these students. The U. S. Supreme Court has held that school districts are required to ensure that students who are unable to speak and understand English can participate meaningfully in their school district's education programs. Lack of English language proficiency often results in a student's repeated failure in the classroom, falling behind in grade, inappropriate placement in special education, and dropping out of school. Without special help in learning English, most of these students will not receive the equal access necessary for academic, social and economic success in this country.

To meet the challenges facing states, local communities, educators, and parents in serving limited English proficient students, the OCR helps school districts understand and meet their obligation to provide effective services to these students. The school district selects the educational program for serving limited English proficient students and the OCR helps to ensure adequate implementation and evaluation of the chosen method.

For example, in 1995, the OCR and a state department of education began working in partnership with a large school district to develop plans for providing language services to some 35,000 students who were not proficient in English. Prior to implementing these plans, the district had not provided basic services to such students. The students were neither learning English language skills nor other subjects, such as math and science. There were also serious shortages in qualified staff and other resources, which are now being rectified. Since 1996, the drop out rate for language minority students in the district has decreased by more than 40%. This is largely due to the district implementing remedial plans after the investigation by the state department of education and the OCR.

Affirmative action

In the area of affirmative action, the OCR upholds two fundamental Title VI standards in higher education. First, colleges and universities must eradicate discrimination and its effects. Second, unless limited by federal court decision or controlling state law, colleges and universities may consider race or national origin as one factor among many where necessary to achieve the educational benefits of diversity, among qualified individuals.

The OCR's enforcement of Title VI helps open doors for all students to receive a strong education that prepares them to be productive citizens in the 21st Century. American higher education is enriched when all students attend schools offering the educational excellence created by campus diversity.

Through outreach and investigations, the OCR uses its authority to ensure compliance with Title VI. The OCR also equips colleges with the legal and educational information they need to ensure that admissions and financial aid are implemented in a manner consistent with Title VI.

Moreover, the OCR is committed to the even-handed application of Title VI to ensure equal opportunity for *all* students. Through investigations, the OCR makes certain quotas and other unlawful preferences are eliminated so that educational benefits, like admissions opportunities or scholarships, are available to all qualified students, free of unlawful discrimination. For example, an Asian American student's parents complained about a statewide financial aid program available only to students from under represented minority groups, which did not include Asian Americans. The OCR resolved the case by obtaining the state's agreement to convert the aid program from one targeted exclusively for under represented racial and ethnic groups to a program requiring that race or national origin be used as one factor among other educational factors and to consider race only where necessary to achieve the educational benefits of campus diversity for all students in a narrowly tailored way. The mended program will help the state's public colleges and universities realize the educational benefits of diversity in a lawful manner by supporting qualified students with needed financial assistance.

Racial harassment

In addition to addressing testing, language minority and affirmative action issues, the OCR also dealt with 442 complaints of racial harassment in fiscal year 1997. In one state, the OCR resolved a case where an African American high school student was subjected to racial taunts by white fellow members of the school's basketball team. School district officials did not respond appropriately to his complaints, and the coach kicked him off the team for raising the issue with the school district administration. In the OCR's resolution of the case, the school district agreed to adopt a revised policy prohibiting racial harassment, and to train staff. It also committed to notify all students, parents and staff that it does not tolerate retaliation against persons for asserting their civil rights.

In another case, a middle school principal bound and gagged two Latino boys as a disciplinary measure and paraded one of them around the cafeteria in that condition. The complainants alleged the treatment was part of a broader pattern of discrimination against Latino students in disciplinary matters. Due to the OCR's efforts, the district committed to reassign the principal to an administrative position and to train the principal and other personnel in proper disciplinary practices, cross-cultural communication, teaching and interacting with language minority students. The district also committed to better disciplinary record keeping; to distribute student disciplinary policies in English and Spanish to all students and parents; and to hire a Special Assistant to the Superintendent for Multi-cultural Education Development.

TITLE IX

Introduction

Title IX, which prohibits sex discrimination in federally funded educational programs, including athletics, 20 U.S.C. §1681, *et seq.*, turned 25 years old during fiscal year 1997. To celebrate the anniversary, the OCR was an integral part of the planning of the commemoration ceremony, held at the White House on June 17, 1997. During the ceremony the President announced his plan for strengthening Title IX enforcement and the OCR presented its new pamphlet, "TITLE IX: 25 Years of Progress."

Since its passage in 1972, Title IX has had a profound impact on helping to change attitudes, assumptions and behavior and, consequently, our understanding about how sexual stereotypes can limit educational opportunities. Still, this type of discrimination is far from over and the OCR works diligently to enforce this law on behalf of all students.

During fiscal year 1997, the OCR received 700 complaints alleging discrimination under Title IX, which is an increase of nearly 17% over the number of Title IX complaints received during fiscal year 1996. Additionally, the OCR initiated two Title IX compliance reviews and continued work on 50 open reviews carried over from previous years. Issues raised by the complaints related to equal opportunity in interscholastic or intercollegiate athletics and sexual harassment.

Fiscal Year 1997 Case Examples

Equity in athletics

During fiscal year 1997, the issue of equity in athletics generated great public interest, particularly because of the 25th anniversary of Title IX. One example of a case in this area involves a school district in which the OCR found that boys' athletic teams received priority use of better gyms at optimal practice times, girls' teams did not participate in as many competitions as boys' teams, and practice sessions for girls' teams were not as long as were those of boys' teams. Due to the OCR's efforts, the school district signed an agreement under which girls' and boys' teams will rotate practices in preferred gyms, girls' teams will compete in the same number of competitions as the boys' teams, and practice sessions for the girls' teams will be equivalent to the boys' sessions.

In another case, the OCR resolved a complaint which alleged a university discriminated against women in its intercollegiate athletic program with respect to the effective accommodation of student interests and abilities, the awarding of athletic financial assistance, the opportunity to receive coaching and the assignment and compensation of coaches, travel and per diem allowance, the provision of locker rooms, practice and competitive facilities, the scheduling of games and practice times, the provision of medical and training services, the provision of housing and dining services, publicity, and the recruitment of student athletes. The university entered into a settlement agreement with the OCR in which the university voluntarily committed promptly to ensure equal treatment of its female intercollegiate athletes with respect to each of the issues raised by the complaint. Among the highlights of the agreement were the university's commitment to increase the number of women participating in intercollegiate athletics by a minimum of 11% by the 1997-98 academic year and to take any additional actions to ensure the effective accommodation of student interests and abilities. The university also agreed to increase significantly the amount of athletic financial assistance awarded to female athletes during the 1996-97 and 1997-98 academic years.

Sexual harassment

In addition to addressing equal opportunity in athletics, Title IX also prohibits sex discrimination, including sexual harassment. Sexual harassment of students is a real and serious problem and can affect any student, regardless of sex, race, or age. It also occurs at all levels, from elementary schools to colleges and universities. Preventing and remedying sexual harassment in schools is essential to ensuring nondiscriminatory, safe environments in which students can learn.

The OCR strongly urges school personnel to consider the age and maturity of students when responding to allegations of sexual harassment. Age is relevant in determining whether sexual harassment occurred in the first instance, as well as in determining the appropriate response by the school. For example, as stated in the OCR's Sexual Harassment Guidance, 62 Fed. Reg. 12034 (1997), a kiss on the cheek by a first grader does not constitute sexual harassment. Age is also a factor to be considered by school personnel when determining what type of education or training to provide to students and staff in order to prevent sexual harassment.

During fiscal year 1997, the OCR received 209 new sexual harassment cases and continued work on 88 cases carried over from prior years. In one case, a middle-school girl was subjected to repeated inappropriate physical contacts by a schoolmate. In response to a complaint, the OCR found the school district failed to take appropriate action to address her reported incidents of sexual harassment. Due to the OCR's efforts, the school district revised its harassment investigation procedures, trained its staff, and conducted sexual harassment training for all of its 1,500 students on the sexual harassment guidelines and policies.

In another case, three high school students were sexually harassed while at an overnight high school camp. The harassment occurred during hazing of freshmen by upperclassmen. The hazing contained unmistakable sexual elements, including making the boys and girls simulate sex acts and mimic prostitutes. Many of the events were witnessed by adult, school district-sanctioned chaperons and were well known, by students and school officials, to have occurred during previous camps. There even appeared to be a level of official sanction for the activities. The school district had neither a Title IX grievance procedure nor a sexual harassment policy for students. Due to the OCR's efforts, the school district agreed to pay for psychological counseling fees for the student victims, to provide training to all staff members, parent-volunteers and chaperons, and all students; and to develop and publish a prompt and equitable Title IX sex discrimination grievance procedure.

Testing

In another case, a testing advocacy group filed a complaint alleging the College Entrance Examination Board (College Board) and Educational Testing Service (ETS) (both federally funded) discriminated against students under consideration by the National Merit Scholarship Corporation (NMSC) for National Merit Scholarships by developing, administering and co-sponsoring the Preliminary Scholastic Assessment Tests/National Merit Scholarship Qualifying Tests (PSAT/NMSQT). The PSAT/NMSQT, which is the exclusive means by which students are identified as commended scholars or semi-finalists and creates the pool from which National Merit Scholars are identified, had a statistically significant adverse impact on the basis of sex. The OCR's October 1996 resolution of this case expanded the PSAT/NMSQT to include a test of written English, which the College Board, ETS and NMSC have determined is a better assessment tool for all 1.2 million PSAT/NMSQT takers each year.

SECTION 504/Title II

Introduction

Section 504 prohibits discrimination on the basis of disability in federally funded programs and activities. 29 U.S.C. §794. Title II prohibits discrimination on the basis of disability by public entities, whether or not they receive federal financial assistance. 42 U.S.C. §12132. During fiscal year 1997, the OCR received 4,063 complaints of disability discrimination under these laws, initiated several new compliance reviews and continued 26 open reviews. The majority of complaints alleged discrimination in one or more of the following areas:

- provision of accessible school facilities and programs;
- provision of appropriate regular or special education services;
- provision of services to students with disabilities in the least restrictive settings consistent with their educational needs;
- provision of appropriate academic adjustments and modifications; and
- provision of auxiliary aids for students with impaired sensory, manual, or speaking skills.

Fiscal Year 1997 Case Examples

One disability case the OCR addressed during fiscal year 1997 involved a school district's refusal to continue serving, in its after school day care program, a second grade boy with Down's Syndrome and visual and hearing impairments. To participate in the program, the student needed an aide. The OCR found the district violated Section 504 and Title II because the student met the essential eligibility requirements for the day care program, and the district's policy had the effect of excluding disabled students. The OCR determined that providing an aide did not fundamentally alter the program nor did it create an undue burden. The district agreed to correct the violation and allow the student in the program.

In another case, a school district, enrolling approximately 6,000 students in 19 school buildings, was found in violation of the law because its buildings and programs were inaccessible to students with disabilities. The schools lacked accessible entrances, bathrooms and interior routes to all parts of the building. In some cases, this meant a student in a wheelchair could not go to the cafeteria or library. After the district signed an agreement to make certain schools accessible, the OCR learned the district did not do so, although it reported otherwise. In spite of the OCR's repeated attempts to get the district to honor its commitments, the district refused to implement its agreement with the OCR. With little other choice, the OCR notified the district of its intention to hold a hearing to terminate funding, whereupon the district finally agreed to implement the corrective actions. With only a few minor exceptions, the district has completed its obligations, which now permits disabled students to have full access to the district's programs and activities.

[Thank you for] the OCR "proving that our Government cares and for protecting my daughter's civil rights."

Parent of high school student
October 3, 1997

AGE DISCRIMINATION ACT OF 1975

The Age Discrimination Act of 1975 prohibits discrimination on the basis of age in programs or activities receiving federal funding. The OCR received 203 age discrimination complaints in fiscal year 1997. The most frequently cited issue was "academic dismissal." The OCR resolved 210 age complaints during fiscal year 1997, some of which were received in previous fiscal years.

PREVENTION

The OCR emphasizes the benefits of prevention over after-the-fact solutions. As part of its prevention efforts, the OCR develops and maintains working relationships to achieve compliance with the civil rights laws.

In the area of Title VI, for example, the OCR collaborated with a state department of education and a national association of educators in a number of projects and activities designed to ensure equal educational opportunities to thousands of limited English proficient students enrolled in the state's school districts. The OCR helped the state develop its "Handbook of Planning for Limited English Proficient Student Success" and its draft procedural guidelines, "Special Education and Second Language Learners: Meeting the Challenges, Realizing the Opportunities." To further this collaborative effort, the OCR participated with the state and the association in a series of presentations regarding effective educational services for limited English proficient students.

In response to a Congressional invitation and in conjunction with its review of a school district's services to language minority limited-English proficient students, the OCR staff attended a congressional town hall meeting focusing on related housing concerns. Presentations were made by representatives of federal, state and local government agencies. The OCR staff were available to address attendees' education civil rights concerns.

In March 1997, the OCR published, in the Federal Register, guidance on Title IX and sexual harassment of students. Among other things, the guidance tells educational institutions how to prevent sexual harassment, address sexual harassment allegations, and minimize harm to students if, despite their best efforts, sexual harassment still occurs. The OCR also published a pamphlet for parents and students, so they will recognize sexual harassment if it occurs and will understand how they can stop it.

The OCR also provided nationwide technical assistance regarding sex discrimination in intercollegiate athletics. The OCR participated in two seminars, sponsored by the National Collegiate Athletic Association, on the athletics provision of Title IX. In these presentations, the OCR addressed a national gathering of college and university administrators on this topic of particular relevance during 1997, the 25th anniversary of the passage of Title IX.

As a final example, the OCR participated in several nationwide conferences on disability issues during fiscal year 1997. In one such conference, held by a national association of administrators, the OCR discussed major components, distinctions and areas in which Section 504 and IDEA overlap. At the conference, the OCR served on a panel, along with representatives from a state's attorney general's office and school district, which responded to questions from a 160-member audience comprised of advocates, school administrators, attorneys, special education professionals and other interested persons.

VII. CONTINUED STREAMLINING TO BETTER SERVE STUDENTS, EDUCATORS AND PARENTS

The OCR is committed to improving its civil rights enforcement efforts. A recipient of three Vice Presidential "Hammer Awards," the OCR is proud of its efforts to streamline its processes and to devote more of its resources to its core business--eliminating discrimination in education.

For example, during the past four years the OCR created national "communities of interest" in which information regarding new or innovative approaches to problems of discrimination can be routinely shared. The OCR also established information systems that are directly responsive to customer needs and preferences, established a national docket of cases to better track the more complex cases, provided consultant services nationally, and facilitated communications across federal and state agencies on this range of issues. Most notably, the OCR has worked closely with the Department of Justice regarding its role in federal litigation affecting education. Addressing issues such as sexual harassment, affirmative action, and desegregation standards, the OCR has provided significant educational and legal support to the Administration's efforts to ensure that the promise of the anti-discrimination laws becomes a reality for all students.

One of the OCR's recent improvements was the creation of the District of Columbia enforcement office, which is responsible for addressing civil rights concerns in North Carolina, Virginia, and the District of Columbia. The office was created from existing staff and became fully operational on October 1, 1996. The District of Columbia office is just one more example of the OCR's commitment to making the most efficient and effective use of its resources.

One example of this office's significant case resolutions involved a school district of approximately 6,000 students. The complaint alleged racial discrimination in the provision of services to gifted and talented students. The district agreed to revise procedures for the admission of students into gifted and talented programs, and to conduct outreach in communities of children who had not been served. The new procedures will provide greater opportunities for participation, not just for minority students, but for *all* students.

The office also obtained an agreement from a school district to overhaul its responses to sex discrimination and sexual harassment. Training is being provided for students, faculty, and even the board of education. The original complaint was filed at a school of approximately 300 students, but the positive impact will be felt throughout the entire district.

Described in 1997 by the U.S. Commission on Civil Rights as generally "operating a highly developed civil rights implementation, compliance, and enforcement program that should serve as a model for other civil rights agencies," the OCR will continue to fulfill its mission of ensuring equal opportunity and access to educational excellence for all students.

"[The OCR was e]xtremely effective in providing the District with an excellent in-service regarding the important issues of developing a plan to establish an effective racial non-discrimination policy in the District...It is particularly noteworthy to point out the professionalism and caring nature of the individuals who represented your federal agency so effectively...Moreover, the OCR team assisted the District in efforts to resolve three complaints through the mediation process...Through the efforts of this team, the District was able to make significant strides toward the issue of protecting the rights of all children in our District relative to matters of discrimination."

School District Superintendent
August 15, 1997

VIII. CHALLENGES

The OCR is justifiably proud of its achievements, especially in light of its recent austere budget years. In fiscal year 1997, the OCR staff was at an all-time low this decade due to budget constraints. In fact, during fiscal years 1994 through 1997, the OCR was severely understaffed due to insufficient funding. Thus, the OCR's achievements are particularly impressive. With a nationwide staff of under 700 (including just 110 attorneys), the OCR resolved 5,121 cases, which includes both complaints and compliance reviews, during fiscal year 1997. Fortunately, the OCR received a fiscal year 1998 appropriation of $61,500,000, fully funding the OCR for the first time this decade. Funding at this level will allow the OCR to hire to its ceiling of 724 FTE, and to fulfill its commitment to ensure equal access to a quality education for all students.

U.S. DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS
(FY 1990 - FY 1997)

FY	Presidential Request	Congressional Appropriation*	FTE	Complaints		Compliance Reviews	
			Usage	Filed	Resolved	Initiated	Resolved
1990	$45,178,000	$44,572,000	815	3,384	3,130	32	30
1991	$49,900,000	$48,404,000	797	3,809	3,497	41	22
1992	$56,000,000	$53,625,000	848	4,432	4,180	77	50
1993	$61,400,000	$56,402,000	854	5,090	4,484	101	82
1994	$56,570,000	$56,570,000	821	5,302	5,751	144	90
1995	$61,457,000	$58,236,000	788	4,981	5,559	96	178
1996	$62,784,000	$55,277,000	745	4,828	4,886	146	173
1997	$60,000,000	$54,900,000	681	5,296	4,981	152	140
1998	$61,500,000	$61,500,000					

*FY 1990 and FY 1995 Appropriation after sequestration; FY 1997 Appropriation after recision

Still, the OCR's civil rights enforcement continues to present new challenges. The OCR must continue to establish partnerships within the educational community and better educate the public about the civil rights laws. The OCR must also help the public understand that anti-discrimination principles and educational excellence go hand-in-hand and find new ways to identify and tackle problems that are, if more subtle, no less severe than those of the 1950's and 1960's.

Despite the progress of the past decades, and despite federal, state and local efforts to eradicate barriers to equal educational opportunity, real and flagrant examples of discrimination remind us that discrimination still exists in the United States. In many cases, information has not reached those who may be unaware of the civil rights laws and the terrible consequences for students and the country alike when equal access to educational opportunity is denied.

Adequate investment is required to provide funding for the OCR's needs. These include costs of: developing strong, educationally sound remedies; staff training; prosecuting cases; legal research; publications; outreach, and conducting the national civil rights surveys. The President has proposed a budget for the OCR in fiscal year 1999 of $68,000,000. This is approximately a dollar per year for each of America's students.

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U.S. Department of Education

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